

RESPONSE UNDER 37 C.F.R. § 1.116
U.S. Application No. 09/611,308
Attorney Docket No. Q59988

REMARKS

General Remarks

Claims 1-23 are all the claims currently pending in the present application.

IDS. Applicant notes that the Examiner returned a signed and initialed copy of the PTO/SB/08 A & B form, which was filed with Applicant's IDS on October 10, 2003, along with the previous Office Action of March 30, 2004. However, Applicant notes that the Examiner failed to initial foreign patent document EP 0 924 868 assigned to Matsushita Electric Industrial Co., Ltd.. Therefore, Applicant respectfully requests that the Examiner initial this reference and return a new signed and initialed copy of the PTO/SB/08 A & B form filed on October 10, 2003 with the next Office communication. Applicant has attached hereto a duplicate copy of the PTO/SB/08 A & B for the Examiner's convenience.

Interview. A telephone interview was conducted with the Examiner on November 12, 2004. A Statement of the Substance of the Interview follows.

Claim Rejections. Claims 1-3, 13, and 19-23 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Shoji, U.S. Patent No. 6,067,293 ("Shoji"). Claim 9 stands rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Shoji, in view of Popovic et al., U.S. Patent No. 6,370,397 ("Popovic"). Claim 11 stands rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Shoji, in view of Terashima, U.S. Patent No. 6,385,232 ("Terashima"). Applicant respectfully traverses these rejections as set forth below.

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Allowable Subject Matter. In the current Office Action, the Examiner indicates that Claims 4-8, 10, 12 and 14-18 contain allowable subject matter and would be allowed if rewritten into independent form including the limitations of the claims from which they depend.

Regarding Claims 15-18, Applicant notes that Claim 15 is an independent claim and that claims 16-18 depend from claim 15. Therefore, Applicant respectfully requests the allowance of Claims 15-18.

Regarding Claims 4-8, 10, and 12, Applicant respectfully requests that the rewriting of these claims be held in abeyance until the Examiner has considered Applicant's arguments presented below.

Statement of the Substance of the Interview

In the interview conducted on November 12, 2004, the issue and receipt by Applicant's representative of two different final Office Actions, both dated November 2, 2004 was discussed. The Examiner acknowledged that these Office Actions were issued in error. The Examiner agreed to cancel the two Office Actions issued in error, to issue a new final Office Action, and to re-start Applicant's time period for response based on the new Office Action.

Claim Rejections

Regarding the Examiner's continuing rejection of Claims 1-3, 13, and 19-23 over Shoji, Claim 9 over Shoji and Popovic, and Claim 11 over Shoji and Terashima, Applicant submits that the issue date of Shoji (May 23, 2000) fails to predate the filing date of the present application (July 6, 2000) by a year or more. Thus, Shoji, at best, would only be available as prior art under 35 U.S.C. § 103 based on 35 U.S.C. § 102 (a) or 102(e).

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Applicant submits herewith a certified English translation of the priority document JP 191287/1999, there by removing Shoji as a reference under § 102(a). Under 35 U.S.C. § 103(c), Applicant may make a showing of common ownership to overcome a rejection under § 103(c), if the reference is only available as a reference under § 102(e), (f) or (g).

The undersigned hereby represents that Shoji and the claimed invention of the present application were, at the time the invention of the present application was made, owned or subject to an obligation of assignment to NEC Corporation.

In view of the above, it is respectfully submitted that Shoji is not available as prior art under 35 U.S.C. § 103, and it is requested that the rejections of Claims 1-3, 9, 11, 13, and 19-23 based on Shoji be reconsidered and withdrawn.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned attorney at the telephone number listed below.

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The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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